

STATE OF ILLINOIS



Department of Financial and Professional Regulation Division of Insurance

IN THE MATTER OF THE REVOCATION)
OF THE LICENSING AUTHORITY OF:)

ROBERT T. TIERNEY)
407 Halia Crest)
Mount Vernon, Illinois 62864)

HEARING NO. 04-HR-1134

ORDER

I, Michael T. McRaith, the undersigned, Director of Insurance of the State of Illinois, hereby certify that I have read the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer who was hereto appointed and designated pursuant to Section 402 of the Illinois Insurance Code to conduct a hearing into the above-captioned matter. [215 ILCS 5/402]

I, Michael T. McRaith, have carefully considered and reviewed the Findings, Conclusions and Recommendations of said Hearing Officer, which are attached hereto and make a part hereof.

I, Michael T. McRaith, the undersigned Director of Insurance, being duly advised in the premises do hereby adopt the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer.

Based upon the information presented, I have caused this Order of Default Judgment be entered in this matter based upon the following:

1. The Division asserted various allegations against the Respondent, regarding his violation of various insurance laws. During the course of the hearing, the Division presented testimony and evidence to illustrate and support their allegations, including Division Exhibits A through G.

2. The record shows the Respondent did in fact violate the Illinois Insurance Code.
3. The Respondent in this matter, after requesting the hearing, as well as a continuance for him to receive substance abuse counseling, which was granted, did not appear at the hearing.
4. The attorney for the Division made a Motion for Default Judgment.

Having reviewed the record and found no just cause for the Respondent's actions, I conclude that the allegations made in the Order of Revocation are accurate.

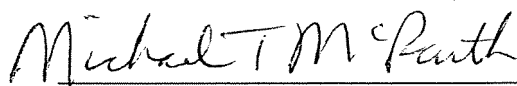
THEREFORE, IT IS HEREBY ORDERED THAT:

1. The licensing authority of Mr. Robert T. Tierney is revoked.
2. Mr. Tierney is assessed the cost of this hearing in the sum of \$105.50, which represents the cost of the court reporting fees. This amount is to be paid to the Division within 30 days of the issuance of this Order.
3. This Order becomes effectively immediately.

DATE: April 25, 2005

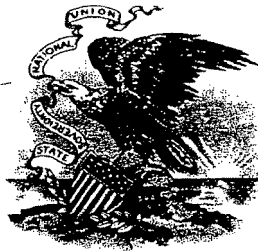
DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION
of the State of Illinois;
FERNANDO E. GRILLO, SECRETARY

DIVISION OF INSURANCE



Michael T. McRaith
Director of Insurance

STATE OF ILLINOIS



Department of Financial and Professional Regulation Division of Insurance

IN THE MATTER OF THE REVOCATION
OF THE LICENSING AUTHORITY OF:

ROBERT T. TIERNEY
407 Halia Crest
Mount Vernon, Illinois 62864

HEARING NO. 04-HR-1134

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING OFFICER

NOW COMES, Eve Blackwell-Lewis, duly appointed Hearing Officer in the above-captioned matter, and hereby offers her Findings of Fact, Conclusions of Law and Recommendations to the Director of Insurance.

FINDINGS OF FACT

1. On December 22, 2004, Eve M. Blackwell-Lewis, was appointed as Hearing Officer in the above-captioned matter by order of the Acting Director of Insurance, Deirdre K. Manna. (Hearing Officer Ex. #1.)
2. The Acting Director of Insurance caused a Notice of Hearing to be issued on December 22, 2004. Attached thereto was both the Appearance of Attorney James Rundblom, on behalf of the Division, a copy of the Order of Revocation, signed by Acting Director Deirdre K. Manna, and the request for a hearing, submitted by Bob Tierney. (Hearing Officer Ex. #1, with Exhibits A and B)
3. On or about January 13, 2005, the Division received a letter addressed to Attorney James C. Rundblom requesting a continuance for 35-40 days. The basis for his request was the approval of his admission to a substance abuse treatment program. (Hearing Officer Ex. #2)

4. On or about January 20, 2005, an additional letter was sent to the Hearing Officer giving more specific information regarding his previous request for a continuance. (Hearing Officer Ex. #3)

5. On or about January 20, 2005, the Hearing Officer caused to be issued an Order of Continuance, setting the date of the hearing for March 15, 2005 at 10 a.m. in the Springfield Offices of the Division. (Hearing Officer Ex. #4)

6. On or about March 2, 2005, the Hearing Officer did issue another Order changing the time of the hearing would begin. The time was changed from 10 a.m. to 11 a.m. on March 15, 2005. (Hearing Officer Ex. #5)

7. At approximately 11:10 a.m. on March 15, 2005, Hearing Officer, Eve Blackwell-Lewis, called the hearing to order. The details of the proceedings are as follows:

The following individuals were present during the hearing:

Hearing Officer, Eve Blackwell-Lewis
Mr. James Rundblom, Counsel for the Division
Mr. Brett Gerger, Supervisor, Illinois Division of Insurance

Having noted the Hearing Officer exhibits introduced, and hearing no objections, all five (5) Hearing Officer exhibits were entered into the record at the beginning of the hearing. (Tr. 4-5) Counsel for the Division, James C. Rundblom gave his opening statement, citing 215 ILCS 5/500-95 of the Insurance Code, along with specific allegations regarding the Respondent's felony conduct. (Tr. 6-7)

Having concluded the Opening Statement, Counsel for the Division was allowed to call his first and only witness, Mr. Brett Gerger. After being duly sworn, Mr. Gerger testified as follows:

*Mr. Gerger is the Assistant Chief Examiner of the Producer Regulatory Unit at the Illinois Division of Insurance, and he has been in this particular position for 3 years. (Tr. 8)

*Mr. Gerger supervises and oversees the investigations done by the staff examiners as part of his job duties, just as he did with former staff Examiner Bonnie Ribble in the investigation of Mr. Robert T. Tierney. (Tr. 8-9)

*Mr. Gerger acknowledged that he reviewed the initial complaint and the correspondence sent throughout the investigation. (Tr. 9)

*Mr. Gerger stated that the initial complaint was received from a consumer that attempted to verify with the Hartford Insurance Company a policy purchased through Mr. Tierney. The Hartford Insurance Company denied any such policy on behalf of the consumer. (Tr.9)

*Through identification of Division Ex. A, Mr. Gerger presented a handwritten letter from the consumer, along with related information gathered in her endeavors to verify the existence of her policy. (Tr. 10; Division Ex. A)

*The Division began investigating and tracking the events that took place. Hartford itself had also begun an investigation as a result of the consumer inquiry. The Company did share the information they had gathered with Examiner Ribble. (Tr. 11-12; Division Ex. B)

*In reviewing the documents sent by the Company, it appeared that the Respondent changed the name of the insured on the policy from Withers to Matthew & Sons Dirt Contractors. (Tr. 13)

*The Examiner then contacted the Respondent and requested an explanation as to the allegations that had been raised. While the Division received a response, it was not an adequate response. The Respondent asked for additional time to respond, which was granted to him. Yet, the Respondent still did not respond within the new time frame. (Tr. 13-17; Division Exs. C, D and E)

*On or about July 21, the Division finally received a response from Mr. Tierney. The Respondent's explanation for what happened was ignorance and stupidity. Mr. Tierney stated that he sent the letter from Hartford as an example only. Even more concerning to the Examiner was the statement that the consumer did not pay any money toward the policy. With the initial complaint there was evidence and an explanation of how the policy was paid for by the consumer. (Tr. 17-20; Division Ex. F)

*Subsequent to Mr. Tierney's response, the Division received a newspaper clipping in the mail, which indicated that Mr. Tierney had been convicted of a felony. The DOI staff then obtained a certified copy of the sentencing and conviction from the Jefferson County Circuit Court. (Tr. 20-22; Division Ex. G)

*After receiving the documentation, the Examiner checked to determine if the conviction had been reported as required by law. No evidence was present that Mr. Tierney had reported the conviction at all. Thereafter, the Division pursued revocation. (Tr. 22)

This concluded Mr. Gerger's direct examination. (Tr. 23)

Mr. Rundblom gave a closing statement, which began with a request for the entrance of a default judgment against the Respondent. In addition, Attorney Rundblom stated that the Division had presented evidence of four violations of the Code, including the commitment of a felony, non-reporting of a felony conviction, forging a policy and forging a signature on an insurance company's letterhead. In conclusion the Division was still seeking the revocation of the Respondent's license.

There was a brief discussion off the record. On the record, the Hearing Officer corrected the time she had noted earlier. In addition, the Hearing Officer entered all the exhibits presented into the record. This concluded the hearing. The record was officially closed on March 15, 2005 at 11:40 a.m.

CONCLUSIONS OF LAW

Based upon the facts discussed above in the Section entitled "Findings of Fact", the Hearing Officer offers the following Conclusions of Law to the Director of Insurance.

1. Eve Blackwell-Lewis was duly and properly appointed as Hearing Officer in this matter by Order of the Director of Insurance pursuant to Section 402 of the Illinois Insurance Code. (215 ILCS 5/402)
2. The Director has jurisdiction over the subject matter and parties to this proceeding pursuant to various Sections of the Insurance Code. (215 ILCS 5/401, 5/402, 5/403 and 5/505.2 et. seq.)
3. The purpose of this Hearing was to determine whether Mr. Robert T. Tierney should be allowed to maintain an Illinois Producer's Insurance License.
4. In revoking Mr. Tierney's license, the Division cited Section 500-70 and 500-95 of the Illinois Insurance Code, which states, in part, the following:

Section 500-70 License denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(2) violating any insurance laws, or violating any rule, subpoena, or order of the Director or of another state's insurance commissioner;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a felony; . . .

(8) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial responsibility in the conduct of business in this State or elsewhere;

215 ILCS 5/500-70

Section 500-95 Reporting of actions

An individual who, while licensed as an insurance producer, is convicted of a felony, must report the conviction to the Director within 30 days after the entry date of the judgment. Within that 30-day period, the individual must also provide the Director with a copy of the judgment, the probation or commitment order, and any other relevant documents.

215 ILCS 5/500-95

The question that must be determined is whether the Division carried its burden of proof with regard to the Order of Revocation. The Division staff performed an investigation and found evidence that Mr. Tierney had taken premium money that was not turned over to the insurance company to bind a policy for the client. In addition, Mr. Tierney did, in fact, have a felony conviction and did not report that conviction to the Division, as required by law. The Division presented additional evidence and testimony regarding Mr. Tierney's actions in connection with the complaint that led to the initial investigation. While testimony was presented regarding the improper handling of the consumer's premium for liability insurance, some of the documents presented by the Division were from Mr. Tierney himself. Mr. Tierney's response regarding the consumer complaint that was sincere, but offered no real explanation outside of "stupidity".

This matter was continued at the request of the Respondent. However, Mr. Tierney still did not attend the hearing, nor did he contact the Hearing Officer. Thus, Mr. Tierney did not submit any evidence in his defense.

The Division requested a default judgment in this matter. Sufficient evidence to support the original Order of Revocation has been presented. The Order of Revocation should be sustained.

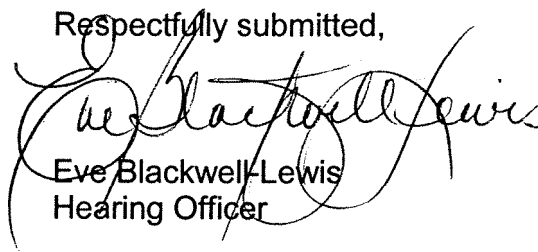
RECOMMENDATIONS

Based upon the above-stated Findings and Conclusions, the Hearing Officer respectfully makes the following recommendations to the Director of Insurance:

1. The Hearing Officer recommends that the Director should affirm the previously issued Order of Revocation.
2. Mr. Tierney should surrender the physical copy of his license to the Division within 30 days. However, the Order of Revocation shall go into effect immediately.
3. Mr. Tierney should be ordered to pay the cost of this proceeding.

Dated: April 18, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eve Blackwell-Lewis", is written over the typed name and title. The signature is fluid and cursive, with the first name "Eve" being particularly prominent.

Eve Blackwell-Lewis
Hearing Officer